

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JAMEL BARNES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17-cv-07358
	)	
ARYZTA, LLC,	)	
	)	
Defendant.	)	

**DEFENDANT ARYZTA LLC'S  
NOTICE OF SUPPLEMENTAL AUTHORITY**

PLEASE TAKE NOTICE that Defendant ARYZTA LLC hereby submits the attached Opinions (**Exhibit 1, 2, 3, 4**) as supplemental authority in opposition to Plaintiff's Petition for Fees following this Court's Memorandum Order and Opinion of December 20, 2017, granting Plaintiff's motion to remand and awarding costs and attorneys' fees pursuant to 28 U.S.C. § 1447(c):

**Exhibit 1:** *Collier v. SP Plus Corp.*, 889 F.3d 894 (7th Cir. May 14, 2018) (per curiam) (vacating district court's dismissal and remanding case to state court based on Seventh Circuit's own review of the complaint to evaluate the Article III standing issue rather than declining to determine issue based on defendant's failure to affirmatively demonstrate plaintiffs had Article III standing).

**Exhibit 2:** *Dixon v. The Washington and Jane Smith Community, et al.*, 17 C 8033, 2018 WL 2445292 (N.D.Ill. May 31, 2018) (following *Collier* which "suggests that the appropriate course of action is to go ahead and decide the threshold issue of standing" to determine that alleged violation of right to privacy in biometric information "is a sufficiently concrete injury for Article III standing").

**Exhibit 3:** *Howe v. Speedway LLC*, 17 CV 7303, 2018 WL 2445541 (N.D.Ill. May 31, 2018) (similarly evaluating the

allegations of the complaint to determine whether plaintiff's alleged injuries were sufficient to establish Article III standing and although remanding the case after finding procedural violations failed to cause an injury-in-fact, declining to award attorneys' fees because defendants "made a colorable, if not winning, argument for constitutional standing").

**Exhibit 4:** *Kiefer v. Bob Evans Farms, LLC, et al.*, 17 CV 1544-JES-JEH, 2018 WL 2329787 (C.D.Ill. May 23, 2018) (finding that the parties' pleadings, including the allegations of plaintiff's complaint that she has been placed "at risk," failed to establish court's jurisdiction but declining to award fees for removal followed by 12(b)(1) motion to dismiss as court did not find defendants "lacked an objectively reasonable basis to seek removal or engaged in vexatious conduct").

Respectfully Submitted,

By: /s/ Kevin M. O'Hagan  
One of the attorneys for Defendant,  
ARYZTA LLC

Kevin M. O'Hagan (ARDC No. 6211446)  
Jamie L. Filipovic (ARDC No. 6278943)  
Kristen A. Cemate (ARDC No. 6299262)  
O'Hagan Meyer, LLC  
One East Wacker Drive, Suite 3400  
Chicago, Illinois 60601  
T: 312.422.6100  
F: 312.422.6110  
[kohagan@ohaganmeyer.com](mailto:kohagan@ohaganmeyer.com)  
[jfilipovic@ohaganmeyer.com](mailto:jfilipovic@ohaganmeyer.com)  
[kcemate@ohaganmeyer.com](mailto:kcemate@ohaganmeyer.com)

### CERTIFICATE OF SERVICE

This is to certify that on the **8th day of June, 2018**, I, Kevin M. O'Hagan, an attorney of record, electronically filed the foregoing *Defendant ARYZTA LLC's Notice of Supplemental Authority*, using the CM/ECF system, pursuant to the General Order on Electronic Case Filing and in compliance with Local Rules 5.2(a) and 5.5, which will effectuate service upon all counsel of record at the following email addresses:

David J. Fish, [dfish@fishlawfirm.com](mailto:dfish@fishlawfirm.com), [admin@fishlawfirm.com](mailto:admin@fishlawfirm.com),  
[sanders@fishlawfirm.com](mailto:sanders@fishlawfirm.com)

Kimberly A. Hilton, [khilton@fishlawfirm.com](mailto:khilton@fishlawfirm.com), [admin@fishlawfirm.com](mailto:admin@fishlawfirm.com),  
[sanders@fishlawfirm.com](mailto:sanders@fishlawfirm.com)

John C. Kunze, [jkunze@fishlawfirm.com](mailto:jkunze@fishlawfirm.com)

The Fish Law Firm, P.C.

200 East Fifth Avenue, Suite 123

Naperville, Illinois 60563

Sydney M. Janzen, [sjanzen@edelson.com](mailto:sjanzen@edelson.com)

Todd M. Logan, [tlogan@edelson.com](mailto:tlogan@edelson.com)

Benjamin Harris Richman, [brichman@edelson.com](mailto:brichman@edelson.com), [docket@edelson.com](mailto:docket@edelson.com)

J. Eli Wade Scott, [ewadescott@edelson.com](mailto:ewadescott@edelson.com), [docket@edelson.com](mailto:docket@edelson.com)

Edelson P.C.

350 North LaSalle Street, 13th Floor

Chicago, Illinois 60654

By: /s/ Kevin M. O'Hagan  
One of the attorneys for Defendant,  
ARYZTA LLC

Kevin M. O'Hagan (ARDC No. 6211446)

Jamie L. Filipovic (ARDC No. 6278943)

Kristen A. Cemate (ARDC No. 6299262)

O'Hagan Meyer, LLC

One East Wacker Drive, Suite 3400

Chicago, Illinois 60601

T: 312.422.6100

F: 312.422.6110

[kohagan@ohaganmeyer.com](mailto:kohagan@ohaganmeyer.com)

[jfilipovic@ohaganmeyer.com](mailto:jfilipovic@ohaganmeyer.com)

[kcemate@ohaganmeyer.com](mailto:kcemate@ohaganmeyer.com)